

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Patrick L. Knueven,

Petitioner-Appellant,

v.

Polk County Board of Review,

Respondent-Appellee.

ORDER

**Docket No. 09-77-1285
Parcel No. 100-11231-000-000**

On July 22, 2010, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Patrick L. Knueven, was self-represented. The Polk County Board of Review designated Assistant County Attorney David Hibbard as its legal representative. Neither party submitted any new evidence in addition to the certified record. The Appeal Board having reviewed the entire record, heard the testimony and being fully advised, finds:

Findings of Fact

Knueven is the owner of a residentially classified, single-family residence located at 1708 41st Street, Des Moines, Iowa. The property is a one-story home with a finished attic built in 1950, has 1257 square feet of total living area, and a twenty-four foot by twenty-four foot detached garage built in 1977. There is a 931 square-foot basement with no finish. The property also has 49 square feet of open porch area. The site is 9500 square feet.

Knueven protested to the Polk County Board of Review regarding the 2009 assessment. The January 1, 2009, total assessment of Knueven's property was \$128,700 allocated as follows: \$31,800 in land value and \$96,900 in improvement value.

Knueven's claim was based on the following grounds: 1) that the property is assessed for more than the value authorized by law under section under Iowa Code section 441.37(1)(b); 2) that there is an error in the assessment under section 441.37(1)(c), asserting the error is over-assessment; and 3) that there has been a downward change since the last assessment under sections 441.37(1) and 441.35. The Board of Review denied Knueven's protest.

In his appeal to this Board, Knueven marked the grounds indicating: 1) that the assessment is not equitable as compared with assessments of other like property under section 441.37(1)(a); 2) that there is an error in the assessment; and, 3) there has been a downward change in value. Knueven's assertion claimed the error is related to the property being assessed for more than authorized by law. Additionally, in a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider either error or downward change as separate claims and instead consider only the claim of over-assessment. Knueven did not make a claim of equity to the Board of Review; therefore, we will not consider this claim.

Knueven did not offer any sales of comparable properties to the Board of Review in support of his assertion the subject property is over-assessed.

In his appeal to this Board, again Knueven did not offer any sales of competing properties. He only testified about his personal opinion in support of his assertion the subject property is over-assessed. Knueven testified he believes his property is assessed higher than others and should not be higher than the average for the area. He did not indicate what he believed to be the average assessment for the area, and he did not provide any sales data or testimony supporting the claim that his property is assessed higher than others in the immediate area. He simply requested relief to a total value of \$118,600 which was the prior year assessment.

The Board of Review based their decision on an appraiser analysis completed by the Polk County Assessor's office. The analysis considered five properties as comparable sales. The properties sold between September 2007 to September 2008. The adjusted range of value, rounded, is \$124,000 to \$150,000. The average adjusted value indicated is rounded to \$135,000, or roughly \$115 per square foot. The median adjusted value indicated is rounded to \$133,000, or roughly a median price per square foot of \$111. The subject's assessment of \$128,700 and assessment of \$102.39 per square foot is below both the average and median.

The Board of Review offered no new evidence to this Board.

After reviewing all the evidence, we find insufficient evidence has been presented to support Knuevens assertion the subject property is assessed for more than authorized by law.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

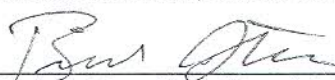
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Knueven failed to offer evidence to support his assertion the subject property is assessed for more than authorized by law with the appropriate sales or market data. The Board of Review provided an appraiser analysis in the certified record which supports the January 1, 2009 assessment.

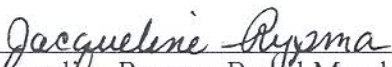
In the opinion of the Appeal Board, the evidence does not support the claim that the property is assessed for more than the value authorized by Iowa Code section 441.21. Therefore, we affirm the January 1, 2009, assessment of the property located at 1708 41st Street, Des Moines, Iowa, as determined by the Polk County Board of Review.

THE APPEAL BOARD ORDERS the assessment of 1708 41st Street, Des Moines, Iowa, as of January 1, 2009, set by the Polk County Board of Review, is affirmed.

Dated this 31st day of August, 2010


Karen Oberman, Board Chair


Richard Stradley, Board Member


Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>8/31</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>[Signature]</i></u>